

Court of Appeals, State of Michigan

ORDER

County of Ogemaw v Municipal Employees' Retirement Systems

Docket No. 302307

LC No. 10-000100-NO

Kathleen Jansen
Presiding Judge

Jane M. Beckering

Cynthia Diane Stephens
Judges

The Court orders that the motion for reconsideration is DENIED. By a plain reading of MCR 7.204(A)(1)(a), it requires a claim of appeal to be filed by 21 days past the date of the order appealed from. Further, this is consistent with MCR 1.108(1), which provides, in relevant part, that, “[i]n computing a period of time prescribed or allowed by these rules . . . [t]he day of the act, event, or default after which the designated period of time begins to run is not included.” In the present context, this means that January 6, 2011, the date of entry of the order appealed from, is not included in the relevant 21-day period. Accordingly, January 7, 2011 was the first day of the 21-day period for the filing of a claim of appeal under MCR 7.204(A)(1)(a), so January 27, 2011 was the twenty-first and final day of that 21-day period. Thus, the claim of appeal filed on January 28, 2011 was not timely under MCR 7.204(A)(1)(a). Further, we cannot properly extend the time for filing a claim of appeal based on equitable considerations because the time limit for an appeal of right is jurisdictional. MCR 7.204(A). This Court may only extend the time for doing a nonjurisdictional act. MCR 7.216(B).

We reiterate that appellants may seek to appeal the January 6, 2011 order by filing a delayed application for leave to appeal under MCR 7.205(F).



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 19 2011

Date


Chief Clerk